



General Assembly

January Session, 2003

Raised Bill No. 6369

LCO No. 964

Referred to Committee on Government Administration and
Elections

Introduced by:
(GAE)

***AN ACT CONCERNING THE ATTORNEY-CLIENT EXEMPTION TO
DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (b) of section 1-210 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2003*):

4 (b) Nothing in the Freedom of Information Act shall be construed to
5 require disclosure of:

6 (1) Preliminary drafts or notes provided the public agency has
7 determined that the public interest in withholding such documents
8 clearly outweighs the public interest in disclosure;

9 (2) Personnel or medical files and similar files the disclosure of
10 which would constitute an invasion of personal privacy;

11 (3) Records of law enforcement agencies not otherwise available to
12 the public which records were compiled in connection with the
13 detection or investigation of crime, if the disclosure of said records

14 would not be in the public interest because it would result in the
15 disclosure of (A) the identity of informants not otherwise known or the
16 identity of witnesses not otherwise known whose safety would be
17 endangered or who would be subject to threat or intimidation if their
18 identity was made known, (B) signed statements of witnesses, (C)
19 information to be used in a prospective law enforcement action if
20 prejudicial to such action, (D) investigatory techniques not otherwise
21 known to the general public, (E) arrest records of a juvenile, which
22 shall also include any investigatory files, concerning the arrest of such
23 juvenile, compiled for law enforcement purposes, (F) the name and
24 address of the victim of a sexual assault under section 53a-70, 53a-70a,
25 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or
26 impairing of morals under section 53-21, or of an attempt thereof, or
27 (G) uncorroborated allegations subject to destruction pursuant to
28 section 1-216;

29 (4) Records pertaining to strategy and negotiations with respect to
30 pending claims or pending litigation to which the public agency is a
31 party until such litigation or claim has been finally adjudicated or
32 otherwise settled;

33 (5) (A) Trade secrets, which for purposes of the Freedom of
34 Information Act, are defined as information, including formulas,
35 patterns, compilations, programs, devices, methods, techniques,
36 processes, drawings, cost data, or customer lists that (i) derive
37 independent economic value, actual or potential, from not being
38 generally known to, and not being readily ascertainable by proper
39 means by, other persons who can obtain economic value from their
40 disclosure or use, and (ii) are the subject of efforts that are reasonable
41 under the circumstances to maintain secrecy; and

42 (B) Commercial or financial information given in confidence, not
43 required by statute;

44 (6) Test questions, scoring keys and other examination data used to
45 administer a licensing examination, examination for employment or

46 academic examinations;

47 (7) The contents of real estate appraisals, engineering or feasibility
48 estimates and evaluations made for or by an agency relative to the
49 acquisition of property or to prospective public supply and
50 construction contracts, until such time as all of the property has been
51 acquired or all proceedings or transactions have been terminated or
52 abandoned, provided the law of eminent domain shall not be affected
53 by this provision;

54 (8) Statements of personal worth or personal financial data required
55 by a licensing agency and filed by an applicant with such licensing
56 agency to establish the applicant's personal qualification for the
57 license, certificate or permit applied for;

58 (9) Records, reports and statements of strategy or negotiations with
59 respect to collective bargaining;

60 (10) Records, tax returns, reports and statements exempted by
61 federal law or state statutes; [or communications privileged by the
62 attorney-client relationship;]

63 (11) Names or addresses of students enrolled in any public school or
64 college without the consent of each student whose name or address is
65 to be disclosed who is eighteen years of age or older and a parent or
66 guardian of each such student who is younger than eighteen years of
67 age, provided this subdivision shall not be construed as prohibiting the
68 disclosure of the names or addresses of students enrolled in any public
69 school in a regional school district to the board of selectmen or town
70 board of finance, as the case may be, of the town wherein the student
71 resides for the purpose of verifying tuition payments made to such
72 school;

73 (12) Any information obtained by the use of illegal means;

74 (13) Records of an investigation or the name of an employee
75 providing information under the provisions of section 4-61dd;

76 (14) Adoption records and information provided for in sections 45a-
77 746, 45a-750 and 45a-751;

78 (15) Any page of a primary petition, nominating petition,
79 referendum petition or petition for a town meeting submitted under
80 any provision of the general statutes or of any special act, municipal
81 charter or ordinance, until the required processing and certification of
82 such page has been completed by the official or officials charged with
83 such duty after which time disclosure of such page shall be required;

84 (16) Records of complaints, including information compiled in the
85 investigation thereof, brought to a municipal health authority pursuant
86 to chapter 368e or a district department of health pursuant to chapter
87 368f, until such time as the investigation is concluded or thirty days
88 from the date of receipt of the complaint, whichever occurs first;

89 (17) Educational records which are not subject to disclosure under
90 the Family Educational Rights and Privacy Act, 20 USC 1232g;

91 (18) Records, the disclosure of which the Commissioner of
92 Correction, or as it applies to Whiting Forensic Division facilities of the
93 Connecticut Valley Hospital, the Commissioner of Mental Health and
94 Addiction Services, has reasonable grounds to believe may result in a
95 safety risk, including the risk of harm to any person or the risk of an
96 escape from, or a disorder in, a correctional institution or facility under
97 the supervision of the Department of Correction or Whiting Forensic
98 Division facilities. Such records shall include, but are not limited to:

99 (A) Security manuals, including emergency plans contained or
100 referred to in such security manuals;

101 (B) Engineering and architectural drawings of correctional
102 institutions or facilities or Whiting Forensic Division facilities;

103 (C) Operational specifications of security systems utilized by the
104 Department of Correction at any correctional institution or facility or
105 Whiting Forensic Division facilities, except that a general description

106 of any such security system and the cost and quality of such system
107 may be disclosed;

108 (D) Training manuals prepared for correctional institutions and
109 facilities or Whiting Forensic Division facilities that describe, in any
110 manner, security procedures, emergency plans or security equipment;

111 (E) Internal security audits of correctional institutions and facilities
112 or Whiting Forensic Division facilities;

113 (F) Minutes or recordings of staff meetings of the Department of
114 Correction or Whiting Forensic Division facilities, or portions of such
115 minutes or recordings, that contain or reveal information relating to
116 security or other records otherwise exempt from disclosure under this
117 subdivision;

118 (G) Logs or other documents that contain information on the
119 movement or assignment of inmates or staff at correctional institutions
120 or facilities; and

121 (H) Records that contain information on contacts between inmates,
122 as defined in section 18-84, and law enforcement officers;

123 (19) Records when there are reasonable grounds to believe
124 disclosure may result in a safety risk, including the risk of harm to any
125 person, any government-owned or leased institution or facility or any
126 fixture or appurtenance and equipment attached to, or contained in,
127 such institution or facility, except that such records shall be disclosed
128 to a law enforcement agency upon the request of the law enforcement
129 agency. Such reasonable grounds shall be determined (A) with respect
130 to records concerning any executive branch agency of the state or any
131 municipal, district or regional agency, by the Commissioner of Public
132 Works, after consultation with the chief executive officer of the agency;
133 (B) with respect to records concerning Judicial Department facilities,
134 by the Chief Court Administrator; and (C) with respect to records
135 concerning the Legislative Department, by the executive director of the

136 Joint Committee on Legislative Management. As used in this section,
137 "government-owned or leased institution or facility" includes, but is
138 not limited to, an institution or facility owned or leased by a public
139 service company, as defined in section 16-1, a certified
140 telecommunications provider, as defined in section 16-1, or a
141 municipal utility that furnishes electric, gas or water service, but does
142 not include an institution or facility owned or leased by the federal
143 government, and "chief executive officer" includes, but is not limited
144 to, an agency head, department head, executive director or chief
145 executive officer. Such records include, but are not limited to:

146 (i) Security manuals or reports;

147 (ii) Engineering and architectural drawings of government-owned
148 or leased institutions or facilities;

149 (iii) Operational specifications of security systems utilized at any
150 government-owned or leased institution or facility, except that a
151 general description of any such security system and the cost and
152 quality of such system, may be disclosed;

153 (iv) Training manuals prepared for government-owned or leased
154 institutions or facilities that describe, in any manner, security
155 procedures, emergency plans or security equipment;

156 (v) Internal security audits of government-owned or leased
157 institutions or facilities;

158 (vi) Minutes or records of meetings, or portions of such minutes or
159 records, that contain or reveal information relating to security or other
160 records otherwise exempt from disclosure under this subdivision;

161 (vii) Logs or other documents that contain information on the
162 movement or assignment of security personnel at government-owned
163 or leased institutions or facilities; and

164 (viii) Emergency plans and emergency recovery or response plans;

165 (20) Records of standards, procedures, processes, software and
166 codes, not otherwise available to the public, the disclosure of which
167 would compromise the security or integrity of an information
168 technology system;

169 (21) Records privileged by the attorney-client relationship between
170 an attorney and a public agency client, except if the Freedom of
171 Information Commission in the exercise of its sound discretion in a
172 contested case brought pursuant to section 1-206 determines that the
173 public interest in disclosure of such records outweighs the public
174 interest in confidentiality. For purposes of this subdivision, the public
175 interest in confidentiality shall be deemed to be the same interests
176 underlying the common law attorney-client privilege.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>

Statement of Purpose:

To allow the Freedom of Information Commission to require disclosure and override the attorney-client privilege under the Freedom of Information Act if the commission determines that the public interest in disclosure outweighs the public interest in confidentiality.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]